

LAUTERBORN

Page 1

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK

4 -----  
5 ADRIAN SCHOOLCRAFT,

6 Plaintiff,

7 -against-  
8

9 THE CITY OF NEW YORK, DEPUTY CHIEF MICHAEL  
10 MARINO, Tax ID. 873220, Individually and in  
11 his Official Capacity, ASSISTANT CHIEF  
12 PATROL BOROUGH BROOKLYN NORTH GERALD  
13 NELSON, Tax Id. 912370, Individually and in  
14 his Official Capacity, DEPUTY INSPECTOR  
15 STEVEN MAURIELLO, Tax Id. 895117,  
16 Individually and in his Official Capacity,  
17 CAPTAIN THEODORE LAUTERBORN, Tax Id.  
18 897840, Individually and in his Official  
19 Capacity, LIEUTENANT WILLIAM GOUGH, Tax Id.  
20 919124, Individually and in his Official  
21 Capacity, ST. FREDERICK SAWYER, Shield No.  
22 2567, Individually and in his Official  
23 Capacity, SERGEANT KURT DUNCAN Shield No.  
24 2583, Individually and in his Official  
25 Capacity, LIEUTENANT CHRISTOPHER BROSCART,

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1  
2 Tax Id. 915354, Individually and in his  
3 Official Capacity, LIEUTENANT TIMOTHY  
4 CAUGHEY, Tax Id. 885374, Individually and  
5 in his Official Capacity, SERGEANT SHANTEL  
6 JAMES, Shield No. 3004, Individually and in  
7 his Official Capacity, and P.O.'s "JOHN DOE"  
8 #1-50, Individually and in their Official  
9 Capacity, (the name John Doe being  
10 fictitious, as the true names are presently  
11 unknown) (collectively referred to as "NYPD  
12 Defendants"), JAMAICA HOSPITAL MEDICAL  
13 CENTER, DR. ISAK ISAKOV, Individually and  
14 in his Official Capacity, DR. LILLIAN  
15 ALDANA-BERNIER, Individually and in her  
16 Official Capacity, and JAMAICA HOSPITAL  
17 MEDICAL CENTER EMPLOYEE'S "JOHN DOE" #1-50,  
18 Individually and in their Official  
19 Capacity, (the name John Doe being  
20 fictitious, as the true names are presently  
21 unknown),

Defendants.

-----  
111 Broadway

New York, New York

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November 7, 2013

10:10 A.M.

VIDEO DEPOSITION of THEODORE  
LAUTERBORN, the Defendant in the  
above-entitled action, held at the above  
time and place, taken before Dawn Miller, a  
Notary Public of the State of New York,  
pursuant to court order and stipulations  
between Counsel.

\* \* \*

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A P P E A R A N C E S  
LAW OFFICES OF NATHANIEL B. SMITH  
Attorneys for Plaintiff  
111 Broadway  
New York, New York 10006  
BY: NATHANIEL B. SMITH, ESQ.  
  
ALSO PRESENT: JOHN LENOIR, ESQ.  
MAGDALENA BAUZA, VIDEOGRAPHER  
  
MICHAEL CARDOZO, ESQ. - CORPORATION COUNSEL  
NEW YORK CITY LAW DEPARTMENT  
Attorneys for Defendants THEODORE  
LAUTERBORN and ALL CITY DEFENDANTS  
100 Church Street  
New York, New York 10007  
BY: SUZANNA PUBLICKER METTHAM, ASST.  
CORPORATION COUNSEL  
RYAN G. SHAFFER, ASST. CORPORATION  
COUNSEL  
FILE NO.: 2010-033074/CONTROL # SSS08994

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1                   A P P E A R A N C E S

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25       BY:     MATTHEW J. KOSTER, ESQ.

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A P P E A R A N C E S  
SCOPPETTA, SEIFF, KRETZ & ABERCROMBIE,  
ESQS.  
Attorneys for Defendant DEPUTY INSPECTOR  
STEVEN MAURIELLO  
444 Madison Avenue  
New York, New York 10022  
BY: WALTER A. KRETZ, ESQ.  
FILE NO.: 2010-033074

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1                   S T I P U L A T I O N S

2  
3  
4           IT IS HEREBY STIPULATED AND AGREED, by  
5   and among the Attorneys for the respective  
6   parties hereto that filing and sealing be  
7   and the same are hereby waived.

8           IT IS FURTHER STIPULATED AND AGREED  
9   that all objections except as to form of  
10   the question, shall be reserved to the time  
11   of trial.

12           IT IS FURTHER STIPULATED AND AGREED  
13   that the within examination may be signed  
14   and sworn to before any notary public with  
15   the same force and effect as though signed  
16   and sworn to before this Court.

17  
18   T H E O D O R E   L A U T E R B O R N ,  
19   having been first duly sworn by Dawn  
20   Miller, a Notary Public within and for the  
21   State of New York, was examined and  
22   testified as follows:

23                   MR. SMITH:   On the record, it  
24                   is 10:10.   It is November 7th 2013.

25                   We are at my offices at 111 Broadway,

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2

answer. Are we staying in the

3

Attorneys' Eyes Only? Are we going

4

back to the non-confidential?

5

MR. SMITH: This is not a

6

confidential document. I don't see

7

any reason to go to the confidential

8

section.

9

Q. These charges and specifications,

10

Paragraph Number 2, says that Schoolcraft

11

is being charged with, among other things,

12

failing to return to duty after being

13

directed to do so by you; do you see that?

14

A. Yes.

15

Q. Am I correct; that when you went

16

into Schoolcraft's home, you told him that

17

he had to come back to the 81st Precinct?

18

A. Yes, from what I remember.

19

Q. Was that direct order by you

20

directing him to return to the 81st

21

Precinct?

22

A. Yes.

23

Q. Why did you order him to return

24

to the precinct?

25

A. Because he failed to comply with



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1

2 patrol guide procedures on going sick and  
3 we needed to answer those out. He left his  
4 employment without permission.

5 Q. Because he left his employment  
6 without permission, you thought you had the  
7 authority to go into his house and order  
8 him back to the 81st Precinct?

9 MS. METHAM: Objection.

10 MR. KRETZ: Objection.

11 A. Yes.

12 Q. Can you identify for me any  
13 protocols, procedure, patrol guide rules  
14 that gave you the authority to do that?

15 MS. METHAM: Objection.

16 A. I cannot cite any right now but  
17 he left his employment without authority,  
18 authorization and he needed to come back  
19 and answer those out.

20 Q. What do you mean by, "Answer  
21 those out?"

22 A. Why he would disregard following  
23 procedures of going sick.

24 Q. Didn't he tell you that he was  
25 sick and he wasn't feeling well?

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1

2 Schoolcraft left the precinct on October  
3 31st?

4 A. Exactly when it was, about 1:30,  
5 2:00, sometime later in the afternoon,  
6 around there.

7 Q. How did you find out that he  
8 left?

9 A. The Sergeant came in and told me.

10 Q. What Sergeant?

11 A. I think her name was Huffman,  
12 Sergeant Huffman.

13 Q. Was anybody else present for that  
14 conversation?

15 A. I don't think so. She come into  
16 my office and I was alone. It was just me  
17 and her.

18 Q. Where was Inspector Mauriello at  
19 that time?

20 A. I don't know, he wasn't in.

21 Q. What did she tell you?

22 A. Basically that Adrian Schoolcraft  
23 just got up from his assignment and wanted  
24 to leave because he was sick, he proceeded  
25 downstairs.

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right?

A. Yes.

Q. What happened next?

A. I was waiting for Broschart to get to his house to see the results of that.

Q. You were waiting at the 81?

A. Yes.

Q. Did Broschart eventually report back to you?

A. Yes, he did.

Q. When did he do that?

A. I don't know the exact time but there was a point where he either -- he reached out to me or I called him. From what I could remember, he said he tried knocking on the door, yelling Adrian's name, there was no answer. He interviewed the landlord who said that he had come home. I don't know if he said he saw him come home or he heard him upstairs, and Lieutenant Broschart thought that he saw movement through the front window, he lived on the second floor, but he couldn't be one

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1

2 hundred percent sure. And I had asked him  
3 to go upstairs and knock again because I  
4 think Lieutenant Broschart felt good about  
5 saying he was upstairs.

6

Q. Meaning that Broschart was  
7 confident that Schoolcraft was there?

8

A. He wasn't confident but he felt  
9 good that he might be upstairs in his  
10 apartment.

11

Q. This report back by Broschart,  
12 this happened as the 4 to 12 tour was  
13 coming in, right?

14

A. No, when the 4 to 12 tour comes  
15 in usually about 3, 3:15, that's when I  
16 approached Lieutenant Broschart, so it took  
17 time for him to get dressed and do his roll  
18 call duties and make his way to the house.  
19 So the time frame for that, I couldn't  
20 really put one on.

21

Q. What was your tour that day?

22

A. I started at 6:00 in the morning.

23

Q. When was your tour scheduled to  
24 end?

25

A. 3:00 in the afternoon.

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1

2 Q. At that time that you were  
3 heading over to Schoolcraft's residence,  
4 were you operating under your own  
5 initiative or had somebody given you that  
6 order?

7

MS. METHAM: Objection.

8

A. No, I was operating under my own  
9 initiative.

10

Q. What happened when you got to  
11 Schoolcraft's residence?

12

A. I made an attempt on knocking on  
13 the door, yelling for Adrian to come out  
14 and talk to me, which there wasn't any  
15 response. I spoke, briefly, I think with  
16 the landlord and then I waited the arrival  
17 of Inspector Mauriello and Chief Marino.

18

Q. How did you know Marino was  
19 coming?

20

MS. METHAM: Objection. You

21

can answer.

22

A. He told me that he was following  
23 me there.

24

Q. When you got to the street where  
25 Schoolcraft's residence was, who else was

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1  
2 at the scene?

3 A. From what I could remember, there  
4 was the Patrol Sergeant from the 104  
5 Precinct. He had his driver, myself,  
6 Inspector Mauriello, Chief Marino and then  
7 I don't know when they started to arrive,  
8 Emergency Service was there, the EMT's were  
9 there.

10 Q. I'm talking about the time that  
11 you arrived. By the time you got to the  
12 street where Schoolcraft's residence was,  
13 who else was there at that time?

14 A. Right when I got there, it was  
15 Lieutenant Broschart, the Patrol Supervisor  
16 from the 104 Precinct, his driver. He may  
17 have had another sector car there with two  
18 other officers around, I'm not one hundred  
19 percent sure.

20 Q. You said you spoke to the  
21 landlord?

22 A. Briefly.

23 Q. Male or female?

24 A. Male. Although I assume that his  
25 wife was there, also.

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2 Q. Who gave you the key?

3 A. The landlord.

4 Q. Which one; the man or the woman?

5 A. I don't know, I don't know.

6 Q. Did they put it --

7 MS. METTHAM: The witness did  
8 not finish.

9 A. I don't even know if they exactly  
10 gave it to me or the Lieutenant.

11 Q. So when you got to the residence,  
12 you went to the door. When you say, "You  
13 went up to the door," you went upstairs to  
14 the second floor, right?

15 A. Yes.

16 Q. How did you get past the first  
17 door on the street level?

18 A. It was opened already.

19 Q. After you knocked on the door,  
20 what did you do?

21 A. That's when I think I went down  
22 to the see the landlord. At that point, I  
23 don't know the sequence of the events;  
24 whether I met the landlord first, then I  
25 went upstairs and knocked, then he came

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2 A. Not that I recall.

3 Q. Do you recall how the key was  
4 obtained to his door?

5 MS. METTHAM: Objection. Asked  
6 and answered. You can answer again.

7 A. Got it from the landlord.

8 Q. I know that but do you remember  
9 who actually got it in hand from the  
10 landlord?

11 A. Yeah, I don't remember.

12 Q. Then what happened after you got  
13 -- "We got the key from the landlord,"  
14 what happened?

15 MS. METTHAM: Objection.

16 A. I don't know the order of events,  
17 how we came together and made the decision  
18 that we were going to make entry into his  
19 house using the key. It was decided that  
20 the Emergency Service guys would go in  
21 first utilizing his key.

22 Q. How were they dressed, the EMS  
23 guys, Emergency ESU guys?

24 MS. METTHAM: Objection. Asked  
25 and answer. You can answer again.



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2           A.           That I could see no physical  
3 injuries on him.

4           Q.           Were disciplinary concerns the  
5 only reason you entered Adrian Schoolcraft  
6 apartment on October 31st 2009?

7           A.           No, they weren't.

8                       MR. SMITH: Objection.

9           Q.           What other reason led you and the  
10 other officers to enter his apartment on  
11 October 31st 2009?

12                      MR. SMITH: Objection.

13                      Leading.

14                      MS. METTHAM: How is that  
15 leading?

16                      MR. SMITH: You're suggesting  
17 the answer to him.

18           A.           To be sure that Adrian  
19 Schoolcraft was physically okay and that he  
20 had not hurt himself.

21                      MS. METTHAM: Mr. Smith, if  
22 you want to take another five minutes.

23                      MR. SMITH: I thought you told  
24 me I was done.

25                      MS. METTHAM: You have already